

Application No. 09/710,137  
Amendment dated January 5, 2004  
Reply to Office Action of October 4, 2003

REMARKS

Applicant's remarks are preceded by related comments from the Examiner (shown in small bold-faced type).

3. Newly submitted claims 32-35 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims are associated with non-elected Group 111 that were cancelled. . . . Accordingly, claims 32-35 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

In the interest of removing this issue from consideration, and thereby speeding the allowance of the remaining claims, claims 32-35 have been canceled.

4. The abstract of the disclosure is objected to because the various acronyms are not defined. Correction is required. See MPEP § 608.01(b).

A replacement abstract has been provided herewith.

A self-checkout system includes a graphical user interface for self-checkout of non-bar-coded items. The interface displays a predetermined image corresponding to a non-bar-coded item, and means for the user to select the image. A product look up (PLU) entry device provides a PLU corresponding to the item selected by the user and a processing unit uses the selected PLU to retrieve price information from a database. The processing unit may also maintain a list of most frequently sold items and the image of at least one item on the list is provided on the display screen. The processing unit may update the display screen when the list of most frequently sold items changes. Images of other non-bar-coded items can also be displayed.

6. Claims 12-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12, line 2, the acronyms "PLU" and "GUI" are not clearly defined.

Claim 12 has been amended to expand the acronyms "PLU" and "GUI".

- "PLU" has been replaced by "Product Look Up (PLU)" in accordance with the definition of "PLU" found at page 2 line 11 of the specification as filed.

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- “GUI” has been replaced by “Graphic User Interface (GUI)” in accordance with the definition of “GUI” found at page 1 lines 8-9 of the specification as filed

8. **Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henty, US 6,363,366.**

**Henty discloses an apparatus for check-out of non-bar coded items comprising, a processing unit 24, a product look-up (PLU) 26 and a graphical user interface (GUT) 28 connected to database 12 for inventory monitoring.**

**To have provided a list of most frequently sold items associated with the image of at least one item on a list of frequently sold items for Henty would have been obvious to one of ordinary skill in the art. Doing such would have been an obvious use of notoriously old method of analyzing inventory to move selected products. To have used a touch screen or keypad input mechanism would have been an obvious use of known display technology.**

Claim 12 has been amended to more clearly recite the claimed invention.

The Examiner’s rejection of claims 12- 21 is respectfully traversed. The Examiner’s rejection is merely an application of hindsight reasoning unsupported by any objective evidence. This is not a sufficient basis to reject the claims. In addition, while asserting that there exist a “notoriously old method” to analyze inventory to “move selected products” the examiner has not provided any objective evidence of such a “notorious” method. In addition, even the showing of such a “notorious” method is not sufficient. What the Examiner must show is that it would have been obvious to apply inventory analysis to the system as claimed in the present application. That is, what the Examiner must show is an apparatus for self-checkout that includes a Product Look Up (PLU) entry device having a display and a Graphic User Interface (GUI), wherein the GUI provides on the display a plurality of images corresponding to non-bar coded items and where at least one of the plurality of images is selected for display based on the item being a member of a list of most frequently sold items. Nowhere does the cited prior art teach or suggest such an invention.

Furthermore, even accepting the Examiner’s assertion that such analysis systems existed, it is not clear that the analysis performed by those systems goes beyond assessing what products to order, or whether sales to “move” certain product may be desirable. The present invention is quite different. The result of the analysis performed by the claimed system is to change the operation of the self-checkout system itself by modifying the interface presented to a user in response to sales analysis. The Examiner has not produced any prior art teaching or suggesting the use of sales analysis to automatically change the interface presented by a self-checkout system in the manner recited by the present claims. Merely

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recognizing that there may have been prior art systems that may have computed "a list of most frequently sold items" for some purpose does not show that one reasonably skilled in the art would have used a list of frequently sold items to update a user interface by which a self-checkout customer interacts with a self-checkout system. Accordingly, the Examiner's rejection under 35 USC § 103(a) is unsupported and it is respectfully requested that the rejection be withdrawn.

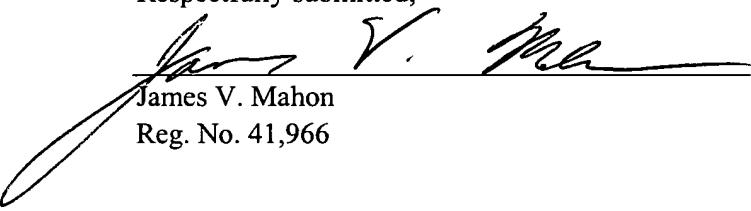
In the event that the Examiner maintains his rejection, the undersigned respectfully requests that the Examiner provide objective evidence detailing the specific characteristics of the "notoriously old" inventory control systems of the type relied on by the Examiner. In addition, the undersigned requests that the Examiner provide some evidence of a teaching or suggestion that would have been relied on by one reasonably skilled in the art at the time to combine Henty with such inventory control systems.

#### CONCLUSION

Claims 12-21 are now pending and believed to be in proper form for allowance.

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Respectfully submitted,

  
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